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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,302	01/26/2004	Glen R. Chartier	RTEE 2 13410-1	8267
7590	12/03/2004			EXAMINER MEISLIN, DEBRA S
E. Kent Daniels, Jr. Fay, Sharpe, Fagan, Minnich & McKee, LLP Seventh Floor 1100 Superior Avenue Cleveland, OH 44114			ART UNIT 3723	PAPER NUMBER

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/764,302	CHARTIER ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Debra S Meislin	3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 20 September 2004.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1,4 and 7 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1, 4, 7 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

Art Unit: 3723

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Gunnarson for the reasons set forth in the previous office action, mailed July 9, 2004.
3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

4. Applicant's arguments filed September 20, 2004 have been fully considered but they are not persuasive.

Gunnarson discloses a wrench for gripping any one of a plurality of workpieces in a progressive sequence of different diameters as claimed by applicant.

As set forth in the parent application with reference to attachment "A":

Attachment "A" is an enlargement of figure 1 of Gunnarson. The plurality of teeth are shown as lying along the fixed jaw "B". The blue markings show at least three of the plurality of discrete teeth wherein each discrete tooth is for engaging one of a plurality of workpieces having different diameters. The remaining discrete teeth lie between teeth "1" and "2" and between teeth "2" and "3". Teeth are located between adjacent ones of the discrete teeth (the teeth between the discrete teeth that do not engage a workpiece) since not all of the teeth engage a

workpiece. Note that Gunnarson discloses nine workpieces and twenty teeth on the fixed jaw. Gunnarson discloses the camming angles as marked in red for at least three of the discrete teeth with corresponding workpieces.

Additionally, Gunnarson discloses "said teeth including a plurality of discrete teeth, each discrete tooth being for providing single tooth contact with a different one of a plurality of cylindrical workpieces" and "just the one said plurality of discrete teeth provided on said fixed jaw for the workpiece of a given diameter". The discrete teeth are shown in attachment "A" (previously sent to applicant in the parent application and attached to the preliminary amendment filed January 6, 2004 in the instant application), wherein there is single tooth contact (by either tooth 1, tooth 2, or tooth 3) of the discrete teeth provided for contact with a different one of a plurality of cylindrical workpieces and just one (tooth 1, tooth 2, or tooth 3) of said plurality of discrete teeth provided on said fixed jaw for the workpiece of a given diameter. The remaining teeth in Gunnarson define the teeth between adjacent ones of the discrete teeth. This is similar to applicant's invention wherein teeth "50" also engage the workpiece.

Applicant appears to be arguing that Gunnarson discloses plural teeth engaging the workpiece and not a single tooth. It is noted that applicant's invention also discloses plural teeth that engage the workpiece, wherein one of the teeth includes a discrete tooth. Note figures 6A-F and figure 7 of the instant application wherein a discrete tooth and an additional tooth engages the workpiece just as the teeth of Gunnarson do. Page 5, lines 13-17 of the instant application also defines discrete teeth and additional teeth to promote gripping.

It is noted that the specification of Gunnarson need not define a plurality of discrete teeth since the drawings clearly disclose such teeth as set forth, above. Teachings may be found in any portion of the disclosure including the specification, the abstract, the drawings, and the claims.

The claims define a plurality of teeth including a plurality of discrete teeth. The claims do not preclude the use of additional teeth and clearly sets forth a plurality of teeth and a subset of said plurality of teeth which includes a plurality of discrete teeth.

With respect to applicant's arguments regarding "an exploded view of Gunnarson's drawings", it is respectfully submitted that the enlarged view of Gunnarson is appropriate to allow the examiner to clearly point out the structure being referred to. The examiner is not using measurements derived from Gunnarson. Consequently, citations referencing measurements are not on point. For every decision made by the courts in one direction, contradictory decisions may be found in other decisions. Consequently, each case will be examined on its own merits.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR

only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin  
Primary Examiner  
Art Unit 3723

November 30, 2004